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8 **UNITED STATES BANKRUPTCY COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 In re:
11 INTEGRATED PACKAGING ASSEMBLY
CORPORATION, dba IPAC,
12
13 Debtor.

Case No. 07-53563 ASW

Chapter 11

Date: June 26, 2008
Time: 2:15 p.m.
Place: Courtroom 3020

15 **REPLY TO OPPOSITION TO MOTION BY UNITED STATES TRUSTEE TO**
16 **CONVERT CHAPTER 11 CASE TO CHAPTER 7**

17 _____The UST filed a motion to convert this case because of compelling
18 circumstantial evidence that the above-captioned debtor (the "Debtor") may have made
19 an unauthorized post-petition transfer of substantially all of its assets to an insider, and
20 in so doing the Debtor may have perpetrated a fraud on the Court by asserting that the
21 transfer was made long before the chapter 11 case was ever filed. Alternatively, the
22 Debtor's responsible individual, Victor Batinovich, may have been so profoundly
23 confused about the Debtor's business and financial affairs that he made a number of
24 staggeringly erroneous statements under oath, first in his sworn declaration filed with
25 the Court, then in the Debtor's original schedules and Statement of Financial Affairs
26 (which he signed under penalty of perjury), and again in his live testimony under oath
27 at the Debtor's initial 341 meeting. Either way, the problems with this case are
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Reply To Opposition To Motion By UST To
Convert Chapter 11 Case To Chapter 7

1 sufficiently serious that they cannot be rectified as long as Mr. Batinovich remains in
2 control of the Debtor.

3 _____ In its opposition brief the Debtor has attempted to re-frame the central issue in
4 the UST's motion as a desire by the UST to conduct an investigation regarding some
5 fairly minor differences in the valuation of the Debtor's assets (purchased by the
6 Debtor in 2003 for \$1 million, valued on the Debtor's 2003 tax return at \$1.2 million,
7 valued on the Debtor's 2004 tax return at \$1.1 million, valued on the Debtor's 2005 tax
8 return at \$1.1 million, and allegedly "sold" by the Debtor in 2006 to insider i2a for \$1.3
9 million). Nothing could be further from the truth. The UST's motion is premised on the
10 need to investigate Mr. Batinovich's blatantly contradictory versions of the facts to
11 determine whether or not a chapter 7 trustee can recover the Debtor's transferred
12 assets for the benefit of creditors. If it turns out that Mr. Batinovich was simply
13 confused at the outset of the case and that there are no grounds to set aside the
14 transfer of the Debtor's assets to i2a, then a trustee can analyze whether the Debtor's
15 remaining "assets" (i.e., its scheduled claims and counterclaims against its own
16 creditors) have any intrinsic value. If the chapter 7 trustee determines that the Debtor
17 is a mere empty corporate shell and that the estate does not have the financial
18 resources to pursue the litigation, Mr. Batinovich is always free to purchase the rights
19 to the litigation from the estate, just as he is free to purchase the **unscheduled**
20 goodwill associated with the Debtor's name, which he now apparently wants to do. No
21 matter which way it plays out, the Debtor's creditors will be far better off if the case is
22 converted.¹

24 ¹ Just to clarify the record, the UST had highlighted the differences in the Debtor's various
25 valuations of its own assets, ranging from \$1 million to \$1.3 million over a three year period, in
26 order to contrast those valuations, on the one hand, with the **\$10 - \$15 million valuation** that Mr.
27 Batinovich had assigned to the Debtor's assets in his declaration filed with the Court on November
28 8, 2007. Mr. Batinovich assigned what appears to be a grossly inflated value to the Debtor's
assets only a few months after the Debtor had filed a tax return in which the Debtor's assets were
valued at \$1,128,972. Mr. Batinovich later admitted at his Rule 2004 exam that he had pulled the
anomalous \$10 - \$15 million valuation of the Debtor's assets "out of the air."

1 _____The Debtor has proposed the appointment of an examiner in lieu of conversion
2 of the case to chapter 7. However, according to the Debtor's current version of the
3 facts, there is no money in the estate to pay an examiner. See Debtor's Amended
4 Schedule B, filed January 25, 2008. Moreover, according to the Rule 2016(b)
5 statement of Debtor's counsel filed on the same date, Mr. Batinovich and i2a were the
6 source of the funds for the Debtor's counsel's \$45,000 retainer. Would Mr. Batinovich
7 and i2a also finance the examiner's investigation of the transfer of the assets of the
8 Debtor (an entity wholly controlled by Mr. Batinovich) to i2a (an entity also wholly
9 controlled by Mr. Batinovich)?² Such an investigation would be so fundamentally
10 tainted as to be meaningless.

11 Based on the foregoing, the UST requests the Court to grant the UST's motion
12 to convert this case to chapter 7.

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14 Dated: June 23, 2008

Respectfully submitted,

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16 By: /s/ Nanette Dumas
17 Nanette Dumas
18 Attorney for United States Trustee
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26 _____
27 ² For that matter, does the fact that Mr. Batinovich and i2a funded the Debtor's counsel's retainer in
28 this case create a disqualifying material interest adverse to the estate on the part of Debtor's
counsel? That is a subject for another day.